

REMARKS

The Examiner has required restriction in the above-identified application as follows:

I. Claims 1-25, 31 and 32, drawn to a liposome compounds and kits containing the same, classified in class 424, subclass 450.

II. Claims 1 and 25-30, drawn to a liposome compound and kits containing the same involving transfection of cells with nucleic acids, classified in class 435, subclass 455 and class 424, subclass 455.

III. Claims 33-38, drawn to method of using liposomes to deliver non-genetic substances, classified in class 514, subclass 21.

IV. Claims 33, 34, 37 and 39, drawn to method of using liposomes to deliver nucleic acids or oligonucleotides, classified in class 435, subclass 325 and 455.

Applicants first note that the instant application has 42 pending claims. The Restriction Requirement mailed February 13, 2004, however, includes only 39 claims. In the telephone conference held on February 24, 2004 between Applicants' representative and Examiner Akhavan, an agreement was reached to add Claim 40 to both Group III and Group IV, and to add Claims 41 and 42 to Group IV. Accordingly, Group III now includes Claims 33-38 and 40. Group IV now includes Claims 33, 34, 37, and 39-42.

Applicants respectfully request the Examiner to reconsider the restriction requirement. Section 803 of The Manual of Patent Examining Procedure states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Applicants respectfully submit that all pending claims in the instant application are related to a lipid compound that can be used in lipid aggregates for the delivery of macromolecules and other

substances into cells. The classes and subclass cited by the Examiner are related to each other and have overlapping scopes. Accordingly, search and examination of the entire application can be made without serious burden on the Examiner.

However, in the event that the Examiner chooses not to reconsider the restriction requirement, Applicants elect Group IV, Claims 33, 34, 37, and 39-42, with traverse, for examination on the merits. Applicants further reserve the right to file one or more divisional applications to the non-elected subject matter, if they so wish.

In view of the foregoing, Applicants respectively request reconsideration of the requirement for restriction and continued prosecution on the merits of all claims in this application. Early notification of such action is earnestly solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact Michael Ye at the telephone number listed below.

Respectfully submitted,

PIPER RUDNICK LLP

A handwritten signature in black ink, appearing to read "Michael Ye", is written over a horizontal line.

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